

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

SEALED PLAINTIFF 1)	
)	
and)	
)	
SEALED PLAINTIFF 2,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:22-cv-00670-MHL
)	
PATRIOT FRONT, <i>et al.</i>,)	
)	
Defendants.)	

PLAINTIFFS’ MEMORANDUM IN SUPPORT OF ITS AGREED MOTION TO STRIKE

Defendants filed their Reply Memorandum in Further Support of Defendants’ Motion to Dismiss (Doc# 85) on April 18, 2023. The reply argues two grounds for dismissal that were not included in Defendant’s opening memorandum. Raising new grounds in a reply is not permitted. *E.g., SunTrust Banks, Inc. v. Robertson*, 2010 WL 11569432, at *5 n.5 (E.D. Va. July 1, 2010) (“The general rule in federal courts is that any arguments raised for the first time in a reply brief are deemed waived, and are thus not considered in adjudicating the motion.”).

One is section III of the reply, entitled “The Plaintiffs’ § 1986 Claims Are Time-Barred,” which is on pages 11 and 12 of the reply. Defendants acknowledge on page 11, footnote 2 of the reply that this is a new ground.

The other is Defendants’ argument that the allegations concerning the scope of the conspiracy, and the discussions at the October 12, 2021 planning meeting, are pleaded with insufficient specificity. This argument starts with the second paragraph on page 8 and continues through the first paragraph on page 9. This too is a new ground. Section III of Defendants’ opening memorandum (pages 11-15) concerned the conspiracy allegations. It challenged the conspiracy

claim on three different grounds: that the conspiracy did not involve involuntary servitude or the right of interstate travel; that Defendants did not intend to deprive Plaintiffs of a right; and that Plaintiffs lack standing. Defendants did not argue in their opening brief that Plaintiffs failed to allege the conspiracy with adequate specificity.

A copy of the reply with the proposed deletions in redline is attached hereto as Exhibit A.

Defendants' counsel have advised that Defendants consent to this motion. Plaintiffs agree that this motion is without prejudice to Defendants' right to raise the two grounds that are the subject of this motion in other pleadings and motions as appropriate.

Respectfully submitted,
SEALED PLAINTIFFS 1 and 2

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CERTIFICATE OF SERVICE

I certify that on April 25, 2023, I caused a copy of the foregoing to be electronically filed using the CM/ECF system, which will send notification to counsel of record of such filing by operation of the Court's electronic system. Parties may access this filing via the Court's electronic system. Additionally, copies have been sent to the following via Email.

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